

Message Text

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PAGE 01 HONG K 12280 200453Z

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ACTION EA-09

INFO OCT-01 ISO-00 PM-04 L-03 INR-07 SS-15 SSO-00 INRE-00

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FM AMCONSUL HONG KONG

TO SECSTATE WASHDC IMMEDIATE 2455

C O N F I D E N T I A L HONG KONG 12280

STADIS//////////

FOR ASSISTANT SECRETARY HUMMEL FROM CROSS

E.O. 11652: GDS

TAGS: ACLM, HK, US

SUBJ: ARMED SERVICES BOARD OF CONTRACT APPEALS CASE NO. 18156

REF: A. STATE 258583, B. HONG KONG 12219

1. HATE TO KEEP HAMMERING AWAY ON WHAT MAY BE LOST CAUSE,
BUT IN THE LIGHT OF YOUR MESSAGE (REF A), I FEEL THE NEED TO
CLARIFY MY POSITION AND THE PRINCIPLES INVOLVED AS I SEE THEM.
FIRST OF ALL, IT WOULD SEEM WHEN THE SENIOR STATE DEPARTMENT
OFFICIAL AT A POST CONCLUDES THAT SOME PROPOSED USG OPERATION
IN HIS AREA OF RESPONSIBILITY WOULD BE CONTRARY TO OUR INTEREST
AND THAT JUDGMENT IS CONFIRMED BY DISCUSSION WITH HOST GOVERN-
MENT, THE DEPARTMENT SHOULD NOT HAVE TO PUT ITSELF IN THE
POSITION OF TRYING TO PERSUADE ANOTHER AGENCY TO ACCEPT OUR
JUDGMENT. WE SHOULD BE ABLE TO SAY NO AND MAKE IT STICK.

2. AS FOR NEED FOR STRONGER EVIDENCE OF HKG OPPOSITION,
PERHAPS MY DRAFTING WAS AT FAULT, BUT WHEN BRITISH SAY
SOMETHING WE PROPOSE TO DO IS "ILL-ADVISED" OR "INCON-
VENIENT", THEY ARE SAYING THEY DON'T WANT IT TO HAPPEN.
WHEN THEY "OPPOSE" THAT IS WHAT THEY MEAN.

3. FACT THAT HEARING DOD WANTS TO HOLD HERE IS
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"CONSISTENT WITH APPEALS COURT WORLD-WIDE PRACTICE" IS

NOT RELEVANT AS FAR AS HONG KONG IS CONCERNED. THERE IS NO PX SYSTEM OR OTHER U.S. MILITARY PRESENCE WHICH WOULD JUSTIFY OUR HOLDING LEGAL OR QUASI-LEGAL PROCEEDINGS HERE CONTRARY TO WISHES OF HKG.

4. THAT DOD IS SO INTENT ON HOLDING HEARING HERE DESPITE MY OBJECTIONS AND IN THE ABSENCE OF ANY JUSTIFICATION OTHER THAN CONVENIENCE AND THE SPURIOUS CLAIM THAT THIS IS CONSISTENT WITH WORLD-WIDE PRACTICE DOES NOTHING TO ALLAY THE CONCERNS I EXPRESSED IN MY MESSAGE TO GEORGE VEST (REF B).

5. DESPITE ALL THE FOREGOING, YOU CAN COUNT ON ME TO DO WHAT IS NECESSARY TO MOLLIFY THE HKG AND TO MINIMIZE PUBLICITY IF THE HEARING IS HELD IN HONG KONG.
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Margaret P. Grafeld
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04 MAY 2006

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